

(i) Is subject to a final order of removal, suspension, or debarment (other than a limited scope order) issued by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency under section 36 of the FDIA;

(ii) Is subject to a temporary suspension or permanent revocation of registration or a temporary or permanent suspension or bar from further association with any registered public accounting firm issued by the Public Company Accounting Oversight Board or the Securities and Exchange Commission under sections 105(c)(4)(A) or (B) of the Sarbanes-Oxley Act (15 U.S.C. 7215(c)(4)(A) or (B)); or

(iii) Is subject to an order of suspension or denial of the privilege of appearing or practicing before the Securities and Exchange Commission.

(2) Upon written request, the Office, for good cause shown, may grant written permission to an independent public accountant or accounting firm to perform audit services for savings associations. The request must contain a concise statement of action requested. The Office may require the applicant to submit additional information.

(k) *Notice of removal, suspension, or debarment.* (1) Upon issuance of a final order for removal, suspension, or debarment of an independent public accountant or accounting firm from providing audit services, the Office shall make the order publicly available and provide notice of the order to the other Federal banking agencies.

(2) An independent public accountant or accounting firm that provides audit services to a savings association must provide the Office with written notice of:

(i) Any currently effective order or other action described in paragraphs (c)(6) through (c)(7) or paragraphs (j)(1)(ii) through (j)(1)(iii) of this section; and

(ii) Any currently effective action by the Public Company Accounting Oversight Board under sections 105(c)(4)(C) or (G) of the Sarbanes-Oxley Act (15 U.S.C. 7215(c)(4)(C) or (G)).

(3) Written notice required by this paragraph shall be given no later than 15 calendar days following the effective

date of an order or action or 15 calendar days before an independent public accountant or accounting firm accepts an engagement to provide audit services, whichever date is earlier.

(1) *Application for reinstatement.* (1) Unless otherwise ordered by the Office, an independent public accountant, accounting firm, or office of a firm that was removed, suspended or debarred under this section may apply for reinstatement in writing at any time. The request shall contain a concise statement of action requested. The Office may require the applicant to submit additional information.

(2) An applicant for reinstatement under paragraph (1)(1) of this section may, in the Office's sole discretion, be afforded a hearing. The independent public accountant or accounting firm shall bear the burden of going forward with an application and the burden of proving the grounds supporting the application. The Office may, in its sole discretion, direct that any reinstatement proceeding be limited to written submissions. The removal, suspension, or debarment shall continue until the Office, for good cause shown, has reinstated the applicant or until, in the case of a suspension, the suspension period has expired. The filing of a petition for reinstatement shall not stay the effectiveness of the removal, suspension, or debarment of an independent public accountant or accounting firm.

[68 FR 48272, Aug. 13, 2003]

## PART 516—APPLICATION PROCESSING PROCEDURES

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## § 516.1

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AUTHORITY: 5 U.S.C. 552, 559; 12 U.S.C. 1462a, 1463, 1464, 2901 *et seq.*

SOURCE: 57 FR 14336, Apr. 20, 1992, unless otherwise noted.

### § 516.1 What does this part do?

(a) This part explains OTS procedures for processing applications, notices, or filings (applications). Except as provided in paragraph (b) of this section, subparts A and E of this part apply whenever an OTS regulation requires any person (you) to file an application with OTS. Subparts B, C, and D, however, only apply when an OTS regulation incorporates the procedures in the subpart or where otherwise required by OTS.

(b) This part does not apply to any of the following:

(1) An application related to a transaction under section 13(c) or (k) of the Federal Deposit Insurance Act, 12 U.S.C. 1823(c) or (k).

(2) A request for reconsideration, modification, or appeal of a final OTS action.

(3) A request related to litigation, an enforcement proceeding, a supervisory directive or supervisory agreement. Such requests include a request seeking approval under, modification of, or termination of an order issued under part 508 or 509 of this chapter, a supervisory agreement, a supervisory directive, a consent merger agreement or a document negotiated in settlement of an enforcement matter or other litigation, unless an applicable OTS regulation specifically requires an application under this part.

(4) An application filed under an OTS regulation that prescribes other application processing procedures and time frames for the approval of applications.

(c) If an OTS regulation for a specific type of application prescribes some application processing procedures, or time frames, OTS will apply this part to the extent necessary to process the application. For example, if an OTS

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regulation for a specific type of application does not identify time periods for the processing of an application, the time periods in this part apply.

[66 FR 13000, Mar. 2, 2001]

### § 516.5 Do the same procedures apply to all applications under this part?

OTS processes applications under this part using two procedures, expedited treatment and standard treatment. To determine which treatment applies, you may use the following chart:

If * * *	Then OTS will process your application under * * *
(a) The applicable regulation does not specifically state that expedited treatment is available.	Standard treatment.
(b) You are not a savings association .....	Standard treatment.
(c) Your composite rating is 3, 4, or 5. The composite rating is the composite numeric rating that OTS or the other federal banking regulator assigned to you under the Uniform Financial Institutions Rating System <sup>1</sup> or under a comparable rating system. The composite rating refers to the rating assigned and provided to you, in writing, as a result of the most recent examination.	Standard treatment.
(d) Your Community Reinvestment Act (CRA) rating is Needs to Improve or Substantial Noncompliance. The CRA rating is the Community Reinvestment Act performance rating that OTS or the other federal banking regulator assigned and provided to you, in writing, as a result of the most recent compliance examination. See, for example, § 563e.28 of this chapter.	Standard treatment.
(e) Your compliance rating is 3, 4, or 5. The compliance rating is the numeric rating that OTS or the other federal banking regulator assigned to you under OTS compliance rating system, or a comparable rating system used by the other federal banking regulator. The compliance rating refers to the rating assigned and provided to you, in writing, as a result of the most recent compliance examination.	Standard treatment.
(f) You fail any one of your capital requirements under part 567 of this chapter .....	Standard treatment.
(g) OTS has notified you that you are an association in troubled condition .....	Standard treatment.
(h) Neither OTS nor any other federal banking regulator has assigned you a composite rating, a CRA rating or a compliance rating.	Standard treatment.
(i) You do not meet any of the criteria listed in paragraphs (a) through (h) of this section.	Expedited treatment.

<sup>1</sup> A savings association may obtain a copy of its composite rating from the appropriate Regional Office.

[66 FR 13000, Mar. 2, 2001]

### § 516.10 How does OTS compute time periods under this part?

In computing time periods under this part, OTS does not include the day of the act or event that commences the time period. When the last day of a time period is a Saturday, Sunday, or Federal holiday, the time period runs until the end of the next day that is not a Saturday, Sunday, or Federal holiday.

[66 FR 13000, Mar. 2, 2001]

## Subpart A—Pre-Filing and Filing Procedures

SOURCE: 66 FR 13000, Mar. 2, 2001, unless otherwise noted.

### PRE-FILING PROCEDURES

### § 516.15 Must I meet with OTS before I file my application?

(a) *Chart.* To determine whether you must attend a pre-filing meeting before you file an application, please consult the following chart:

If you file * * *	Then * * *
(1) An application for permission to organize a <i>de novo</i> federal savings association.	You must meet with OTS before filing your application. You must submit a draft business plan before this meeting.
(2) An application to convert an existing insured depository institution (other than a state-chartered savings association or a state-chartered savings bank) or a credit union to a federal savings association.	You must meet with OTS before filing your application. OTS may require you to submit a draft business plan or other relevant information before this meeting.
(3) An application to acquire control of a savings association ...	OTS may require you to meet with OTS before filing your application and may require you to submit a draft business plan or other relevant information before this meeting.